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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

NOTE.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as we report in full.

KANE v. QUILLIN et al.

June 28, 1905.

[51 S. E. 353.]

DEED OF TRUST—UNDUE INFLUENCE—EVIDENCE—SUFFICIENCY.

Evidence in a suit to set aside a deed of trust examined, and held to warrant a finding that it was procured by undue influence exercised by the beneficiary therein.

MICKENS v. PHILLIPS.

June 15, 1905.

[51 S. E. 354.]

MARRIAGE—BREACH OF PROMISE—CONDONATION.

A statement in a letter written by a woman to a man who had broken his promise to marry her, repeating his statement that they would never get married, and stating that she hoped that he might marry some day, because he knew she would give him lots of trouble and would not be affectionate towards him, does not, when considered with other parts of the letter, which convey a distinct protest against his refusal to observe his promise to marry the writer, constitute a condonation of the breach, or release the man from his engagement.

BIG STONE GAP IRON CO. v. OLINGER.

June 28, 1905.

[51 S. E. 355.]

MINES AND MINERALS—CONTRACTS—BREACH—BURDEN OF PROOF—INSTRUCTIONS—EVIDENCE—COST OF MINING—MERCHANTABLE COMMODITY.

1. In an action for breach of a mining lease, requiring the lessee to mine not less than 1,000 tons of ore a month, provided that there was and continued to be that much merchantable ore on the land, capable of being mined at a reasonable cost, the burden was on the lessee to show that there was not on the land merchantable ore capable of being mined at a reasonable cost, in order to excuse his default.

2. Where, in an action for breach of a mining lease, the whole evidence showed that the contract was abandoned because the land did not contain ore in sufficient quantity to be mined at a reasonable cost, and the sole